

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RIDE THE DUCKS
INTERNATIONAL, LLC,

Plaintiff,

v.

T.H.E. INSURANCE COMPANY,

Defendant.

C15-1982 TSZ
(consolidated with C15-1987 TSZ)

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) The parties are DIRECTED to file, on or before September 12, 2022, a Joint Status Report addressing the following issues:

(a) Whether the asserted basis for subject-matter jurisdiction in these consolidated cases is diversity or a federal question. In Case No. C15-1982, the CM/ECF filer selected federal question jurisdiction based on 28 U.S.C. § 635, which does not appear applicable to the facts of this case, and checked federal question as the basis of jurisdiction on the Civil Cover Sheet (C15-1982, docket no. 1-1), but the Complaint (C15-1982, docket no. 1) pleads claims under state law and refers to 28 U.S.C. § 1332. In Case No. C15-1987, the CM/ECF filer selected federal question jurisdiction related to an insurance contract, but checked diversity on the Civil Cover Sheet (C15-1987, docket no. 8), which seems consistent with the fifteen “counts” set forth in the Complaint (C15-1987, docket no. 1) as to which T.H.E. Insurance Company seeks declaratory judgment pursuant to 28 U.S.C. § 2201, which does not confer jurisdiction. *See Skelly Oil Co. v. Phillips Petroleum Co.*, 339 U.S. 667, 671 (1950).

(b) If subject-matter jurisdiction is premised on diversity, whether this matter should be dismissed without prejudice for failure to provide information

1 sufficient to determine the citizenship of one of the parties.¹ Limited liability
2 companies are citizens of every state in which their members are domiciled. See
3 Johnson v. Columbia Props. Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006).
4 In Case No. C15-1982, the operative pleading indicates that Ride the Ducks
5 International, LLC (“RTDI”) is a Missouri limited liability company (“LLC”) with
6 its principal place of business in Missouri and its headquarters in Georgia, see
7 Compl. (C15-1982, docket no. 1), and RTDI’s corporate disclosure statement
8 merely “certifies that it is a Missouri corporation,” Corp. Discl. Stmt. (C15-1982,
9 docket no. 3). In Case No. C15-1987, the complaint alleges on “information and
10 belief” that RTDI is a Missouri LLC with its principal place of business in Georgia
11 (not Missouri), and that its members are Herschend Family Entertainment
12 Corporation, a Missouri corporation with its principal place of business in
13 Georgia, and Christopher Herschend, a resident of Georgia. Compl. (C15-1987,
14 docket no. 1). RTDI has not admitted (and is therefore deemed to have denied)
15 the allegation concerning the identity of its members. See Answer (C15-1987,
16 docket no. 35); see also Fed. R. Civ. P. 8(b)(4). Because the documents filed so
17 far in these matters do not identify all members of RTDI or their respective
18 citizenships, the Court cannot determine whether diversity jurisdiction exists.

19 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
20 record.

21 Dated this 15th day of August, 2022.

22 Ravi Subramanian
23 Clerk

s/Gail Glass
Deputy Clerk

21 ¹ The opposing party, T.H.E. Insurance Company, is reported to be a Louisiana corporation with
22 its principal place of business in Florida. See Compl. (C15-1987, docket no. 1); see also Corp.
23 Discl. Stmt. (C15-1987, docket no. 12).